Real Estate
Delegations and Certification

Real Estate Community of Practice Conference

Topics

- **Background**
- **Overview**
- **Delegations**
- **Certification Process**

Background

- **SecArmy has delegated authority to execute various real estate actions and documents**
  - **Covering the life cycle of the Army's real property assets and the supporting business processes**
    - acquisition of interest in land, management of title, granting use, and disposal.
  - **for military installations and civil works projects**
- **USACE redelegated primarily through engineer regulations and memos**
- **Director of Real Estate Memo dated Dec 04, summarized delegations**

Background

- **Civil Works - from 1800's**
- **Military function from Quartermaster – 1941**
- **Delegations vary in style:**
  - **depending on the date on which they were issued**
  - **General Orders in effect at the time**
  - **mix of Chief of Engineers; Cmdr, USACE; and Cmdr and Director of Real Estate**
- **Many Originals lost – records are spotty - old copies difficult to read**

Overview

- **Army Regulations, *Real Estate*:**
  - AR 405-10, *Acquisition,* 15 July 1974,
  - AR 405-15, *Claims*, 1 Feb 1980
  - AR 405-16, *Homeowners Assistance Program,* 12 June 1992,
  - AR 405-20, *Jurisdiction*, 21 Feb 1974
  - AR 405-25, *Annexation*, 21 Feb 1974
  - AR 405-30, *Minerals*, 15 July 1984,
  - AR 405-80, *Management of Title and and Granting Use*, Nov 1997,
  - AR 405-90, *Disposal,* 10 May 1985.
- **ER 405-1-12, *Real Estate Handbook***
- **Delegation Memos**

Acquisition - Delegation

- **Acquire real property, interests in real property, or use of real property, for both military and civil works activities, by direct purchase, donation, condemnation, lease, license, permit or other generally accepted real estate method;**
- **Perform actions under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;**
- **Perform acquisition actions under Title 33, Navigation and Navigable Waters**
- **Accept options, offers to sell and settlements associated with such acquisition;**
- **Issue, execute, manage, renew, supplement, or revoke any and all necessary documents, except for condemnation;**
- **Expend funds for such acquisition.**

Acquisition - Redelegation

- **To USACE Division or District Commanders, and to Division or District Chiefs of Real Estate, GS-1170, to the level for which they meet the applicable qualifications**
- **Division or District Chiefs of Real Estate are authorized to redelegate this authority to their Chief of Acquisition or to individuals under their supervision, who meet the applicable qualifications for that level action.**
- **District Chiefs of Real Estate are authorized to redelegate authority to execute licenses and permits for up to 5-year terms that do not require title opinions and do not require an appraisal or formal estimate of value, to individuals who meet the applicable qualifications for that level action, as follows:**
  - **(1) To individuals at civil works projects.**
  - **(2) To individuals in the office of the DPW at military installations, USP&FOs for National Guard, or the Real Property Officer, Reserve Regional Readiness Commands**

Acquisition - Restrictions

- **Prior to executing any acquisition authority so delegated, the USACE official must validate that any necessary Congressional clearances have been obtained, that requirements have been validated by the appropriate approving official, that funding is available, that there is appropriate authority, and that there is compliance with any statutory restrictions.**
- **All Reviewing Attorneys must comply with the DOJ's *Department of Justice Title Standards 2001, A guide for the preparation of title evidence in land acquisitions by the United States of America* and qualifications set out therein. All opinions of title, deeds, condemnation assemblies and other legal documents must be reviewed and/or prepared by a qualified attorney.**
- **HQUSACE has authority to execute Declarations of Taking and all necessary documents for condemnation, up to a value of $350,000.**

Management of Title and Granting Use

- **Issue, execute, manage, renew, supplement or revoke outgrants authorizing the use of Army real property**
- **To consent to mineral leasing**
- **Perform management of title actions.**

Management - Redelegation

- **To USACE Division or District Commanders, and to Division or District Chiefs of Real Estate, GS-1170, to the level for which they meet the applicable qualifications**
- **Division or District Chiefs of Real Estate are authorized to redelegate this authority to their Chief of M&D or to individuals under their supervision, who meet the applicable qualifications for that level action**
- **USACE division or district Chiefs of Real Estate are authorized to redelegate authority to execute, manage, renew, supplement, or revoke licenses or permits, which do not require an appraisal or formal estimate of value and which are for a term of 5 years or less, to individuals who meet the applicable qualifications for that level action, as follows:**
  - **(1) To individuals at civil works projects.**
  - **(2) To individuals in the office of the DPW at military installations, USP&FOs for National Guard, or the Real Property Officer, Reserve Regional Readiness Commands.**
- **Garrison Commanders, USAR, RSC Commanders, or the USP&FO have authority to execute certain outgrants**

Management - Restrictions

- **Prior to executing any authority so delegated, the USACE official must validate that any necessary Congressional clearances have been obtained, that the action has been validated by the appropriate approving official, in accordance with AR 405-80, *Management of Title and Granting Use of Real Property*, that funding is available to cover administrative expenses, that there is appropriate authority, and that there is compliance with any statutory restrictions.**
- **All leases and other legal documents must be reviewed and/or prepared by a qualified attorney unless the document is a standard format issued by HQUSACE, without deviation except for optional language shown in the format. Legal review is required for site specific and operational conditions added to the standard format and for overall legal sufficiency.**

Disposal - Delegation

- **Issue and execute disposal documents and complete disposal actions for Army real property, except for deeds**
- **Redelegation: to USACE Division or District Commanders, and to Division or District Chiefs of Real Estate, GS-1170, to the level for which they meet the applicable qualifications**
- **Division or District Chiefs of Real Estate are authorized to redelegate this authority to their Chief of M&D or to individuals under their supervision, who meet the applicable qualifications for that level action**
- **USACE Division or District Chiefs of Real Estate are authorized to redelegate authority to complete disposal actions, which do not require an appraisal or formal estimate of value and which do not require a deed, to individuals who meet the applicable qualifications for that level action, as follows:**
  - **(1) To individuals at civil works projects.**
  - **(2) To individuals in the office of the DPW at military installations, USP&FOs for National Guard, or the Real Property Officer, Reserve Regional Readiness Commands.**

Delegations - Restrictions

- **Prior to executing any disposal authority so delegated, the USACE official must validate that any necessary Congressional clearances have been obtained, that disposal has been validated by the appropriate approving official, in accordance with AR 405-90, *Disposal,* that funding is available to cover administrative expenses, that there is appropriate authority, and that there is compliance with any statutory restrictions.**
- **All deeds and other legal documents must be reviewed and/or prepared by a qualified attorney.**
- **BRAC disposals documents are not delegated.**

Jurisdiction

- **Prepare and process jurisdictional assembly to the DASA (I&H) and to maintain the official jurisdictional status records.**
- **Redelegation: Division or District Commanders, or to Division or District Chiefs of Real Estate, to the level for which they meet the applicable qualifications.**
- **DASA(I&H) retains execution of letters and documents to the applicable state Governor or Chief Executive Officer**
- **Prior to executing any authority so delegated, the USACE official must validate that the appropriate official has approved the requirement to change jurisdictional status and initiate the jurisdictional assembly, that funding is available to cover administrative expenses, and that there is compliance with any statutory restrictions.**
- **Jurisdictional assemblies must be prepared/reviewed by a qualified attorney. A qualified attorney must prepare all opinions on jurisdictional status in coordinate with applicable Staff Judge Advocates.**

Claims

- **Review and settle real estate damage and taking claims; to issue, execute, prepare and process all documents necessary to settle the claim, including acquisition of real property interest; and to expend funds to pay the claim.**
- **Redelegation: Division or District Commanders, or to Division or District Chiefs of Real Estate, GS-1170, to the level for which they meet the applicable qualifications**
- **Prior to executing any authority so delegated, the USACE official must validate that funding is available to cover administrative expenses; that there is compliance with any statutory restrictions; and that action is a real estate claim within applicable delegations from the Army Claims Service for military claims.**
- **All opinions on legal validity of a claim must be prepared by a qualified attorney.**
- **Claims in litigation are handled by applicable Counsel offices and the Department of Justice and are not covered by this delegation.**

Annexation

- **Execute any needed documents to acquiesce to an annexation or prepare and process the formal annexation assembly to oppose the annexation.**
- **Redelegation: Division or District Commanders, or to Division or District Chiefs of Real Estate, GS-1170, to the level for which they meet the applicable qualifications.**
- **DASA (I&H) retains the authority to oppose the annexation and to execute appropriate opposition letters and/or documents to state or local officials**
- **Prior to executing authority so delegated, the USACE official must validate that the appropriate official has determined the impact on the installation or project; that funding is available to cover administrative expenses, and that there is compliance with any statutory restrictions.**
- **All opinions on annexation impacts and statutory requirements must be prepared by a qualified attorney.**
- **The authority to approve or oppose an annexation initiated by a state or local entity includes the authority to do the same for an annexation that the Army wishes to initiate**

Qualifying Standards

- **HQUSACE has established qualifying standards for redelegation of authority and the process for delegating to named individuals.**
- **The standards show different levels of authority for different types of actions based on training and experience.**
- **Each Division will establish a Real Estate Technical Qualifying Panel for Level 2.**
- **Each District will establish a Real Estate Technical Qualifying Panel for Level 1.**
- **HQUSACE will establish a Real Estate Technical Qualifying Panel for Level 3.**
- **Qualifying Standards and delegation to prepare and review appraisals is a totally separate process. Appraisers can be delegated execution authority separate from their appraisal duties**

Oversight

- **Any redelegations will include appropriate oversight and control procedures to ensure that only competent persons sign documents in compliance with Army policy and applicable laws.**

Qualifying Standards for Redelegation to Individuals

- **Certification that an individual is qualified for certain delegation levels**
  - **Not a "warrant" because term can be confused with Contracting**
  - **Certification is not the delegation**
- **Real Estate Certification steps**
  - **Individual:**
    - Completes a *Career Record Brief*
    - Prepare an *Individual Development Plan (IDP)*
    - Applies for *certification* to the appropriate Real Estate Technical Qualifying Panel
    - Certified individual is now eligible for Delegation needed by a Real Estate position
  - **New employee will follows same steps**
  - **Once certified, individual must complete a minimum of 80 Continuing Learning points every two years to retain certification.**

Certification Process – *Preparation*

- **Career Record Brief**
  - **Individual prepares a *Career Record Brief***
    - one-page display of pertinent real estate information and experience.
    - personal data: position, training, education, awards, certifications and assignment information.
    - tool to manage career updated at least annually
- **Individual Development Plan**
  - **Individual and Supervisor prepare an *Individual Development Plan (IDP).***
    - DA already requires an IDP as part of annual TAPES process
    - A 5-year plan that outlines education, training, and experience goals
    - Determine and define career goals and objectives in concrete terms both in the short term and the long term
    - Work with supervisor and agree on a plan
    - Document the desired education, training or experience on IDP

Certification Process – *Apply for Certification*

- ***Career Record Brief* and *IDP* submitted to designated Real Estate Technical Qualifying Panel**
  - District Panel for Level 1
  - Division Panel for Level 2
  - HQ level for Level 3
- **Panel reviews documents and certifies Individual as meeting qualification**
  - For appropriate Real Estate functional area and level
  - Not a delegation
  - Can be certified in order to apply to/prepare for a positions

Real Estate Delegation Process

- **Once certified, then individual can apply for a *Delegation***
  - Delegation evidenced by a written *Delegation* Certificate
  - **For certified Real Estate functional area and level**
  - **Per position held**
  - **Delegation authorized by**
    - District Chief of Real Estate – Level 1
    - Division Chief of Real Estate/Senior Realty Specialist – Level 1 and 2
    - Director of Real Estate, HQUSACE – Level 3
- **Three Levels of Delegation in Real Estate functional areas**
  - **Level 1 – Limited Specific Purpose with Dollars or Term Limitations [can hold more than one Level 1]**
  - **Level 2 - Broader functional area with Dollars/ Term Limitations**
  - **Level 3 - General Delegation – only limit is actions that have to go to DASA**

Sample Delegation

Delegation

Level 1

Delegation

Level 2

RE Delegation

- ***Delegation*** **void when individual is reassigned**
  - **Certification by Panel still valid**
  - **New Delegation may be issued based on new position, if certified in that area**
- **Delegation can be rescinded/terminated by issuing official for:**
  - **Failure to exercise ethical and sound business judgment,**
  - **Failure to comply with law (real estate, fiscal, other); applicable regulations**
  - **Fraud**
  - **Failure to maintain and document Continuous Learning (CL) Requirements**
  - **Revocation can be appealed to applicable Real Estate Technical Qualifying Panel**
- **Sunset term – no more than 5 years**
  - **Must have qualifications reviewed and recertified**
  - **Delegation renewed after review of qualifications**

Level 1

Individual must be assigned to a District Real Estate Division (Level 1 is not Division/HQ level work)

- **Be classified as a Realty Specialist (GS-1170) or Appraiser (GS-1171)**
- **Perform real estate duties**
- **GS-07 or above**
- **Exception:**
- **Installation DPW/real property officer, or Civil Works Project staff can be in other series and delegated limited actions under oversight of the District**

- **EXPERIENCE:**
  - **One year or more of real estate experience related to specific purpose of Certification.**

EDUCATION: (None Mandatory) Desired:

- **Baccalaureate degree from an accredited institution of higher learning in community planning, business or related field (real estate, accounting, law, business administration, mortgage or real estate finance, economics)**
- **6 semester hours among: accounting, business finance (real estate or mortgage finance, appraisal), law, contracts, economics, marketing, marketing, quantitative methods, organization and management (business administration, program management, land management, forestry).**

- **TRAINING:**
  - **Basic PROSPECT Course in subject area of delegation, e.g. RE ACQ 101,**
    RE M&D 101
  - **Basic Real Estate principles course, e.g. IRWA, college, private vendor, Appraisal Institute**
  - **Desired:**
    - 6 semester hours among: accounting, business finance (real estate or mortgage finance, appraisal), law, contracts, economics, marketing, marketing, quantitative methods, organization and management (business administration, program management, land management, forestry).
    - (These semester hours can be a part of those earned for the Baccalaureate degree.)

Level 1

- **Level 1 – Delegation - Specific Purpose, e.g.:**
  - **District Realty Specialist/Appraiser may execute rights of entry, routine recruiting leases, bills of sale for building disposal, licenses**
  - **CW Project or DPW/USP&FO, Reserve RRC persons limited to acquisition or grant of license or permit, up to 5-year term, no title opinion, appraisal or formal value estimate required and bill of sale for building disposal**
  - **Specific Dollars or Term Limitations, e.g. under $100,000 or term up to 5 years**
  - **Approvals required by applicable AR or ER/EC; may require chop by Section Chief/Team Leader/person delegated higher level**

Level 2

- **Individual must be assigned to MSC or District Real Estate Division**
  - **Be classified as a Realty Specialist/Appraiser**
  - **Perform real estate duties**
  - **Certificate of Delegation void when reassigned from the Real Estate duties**
  - **Annual Continuing Education requirements**
  - **GS 09 – 14**
- **EDUCATION: (None Mandatory) Desired:**
  - **Baccalaureate degree from an accredited institution of higher learning in community planning, business or related field (real estate, accounting, law, business administration, mortgage or real estate finance, economics)**
  - **9 semester hours among: accounting, business finance (real estate or mortgage finance, appraisal), law, contracts, economics, marketing, marketing, quantitative methods, organization and management (business administration, program management, land management, forestry). (These semester hours can be a part of those earned for the Baccalaureate degree.)**
- **TRAINING:**
  - **Met Level 1 training requirements**
  - **Advanced PROSPECT Course in subject area or Instructor**
  - **Certification in a Program Area, e.g. IRWA Relocation Specialist OR continued general real estate training**
  - **Continued related training, such as environmental law and regulations, appraisal courses**
  - **Desired:**
    - 9 semester hours among: accounting, business finance (real estate or mortgage finance, appraisal), law, contracts, economics, marketing, marketing, quantitative methods, organization and management (business administration, program management, land management, forestry).
    - (These semester hours can be a part of those earned for the Baccalaureate degree.)

Level 2.a.

- **EXPERIENCE:**
  - **Level 2.a: GS 09-12: Three years of progressively complex real estate experience related to the functional area of the Certification Delegation.**
  - **Desired: an additional 2 years**
- **Level 2.a. – Delegation - broader functional area, e.g. acquisition closing agent, negotiator, relocation specialist, encroachment resolution, outgrants; preparation of GSA SF 118, disposal of less than fee**
  - **Actions not authorized at Level 2.a., e.g. outgrant waiver of competition not authorized in ER/EC; disposal of fee; approval of condemnation; actions that have to go to DASA**
  - **Specific Dollars/ Term Limitations, e.g. Offer to Sell w/i 15% of approved appraisal, lease for 5-year term, A&G lease for 10-year term, no Title 10 report required**
  - **Approvals required by applicable AR or ER/EC, e.g. Acquisition. Project, Availability, Disposal Report**

Level 2.b.

- **EXPERIENCE:**
  - **Level 2.b: GS 12-14: Five years of progressively complex real estate experience related to the functional area of the Certification Delegation.**
  - **Desired: an additional 4 years**

- **Level 2.b. – Delegation - Person under direct supervision of the Chief of Real Estate managing one broad functional area, e.g. Chief of Acquisition, Chief of Management and Disposal, Chief of Planning and Control**
  - **Actions not authorized at Level 2.b., e.g. actions that have to go to DASA**
  - **Specific Dollars/ Term Limitations, e.g. offer to sell w/i 20% of approved appraisal; leases up to 25 years.**
  - **Approvals required by applicable AR or ER/EC, e.g. Acquisition. Project, Availability, Disposal Report**

Level 3

- **Individual must be assigned to MSC or District Real Estate Division**
  - **Be classified as a Realty Specialist/Appraiser**
  - **Perform real estate duties**
  - **Certificate of Delegation void when reassigned from the Real Estate duties**
  - **Annual Continuing Education requirements**
  - **GS 14 – above**
- **EXPERIENCE:**
  - **Six years of general RE experience in more than one functional area covered by the Certificate of Delegation.**
  - **Desired: 3 years additional years of experience in positions of increasing responsibility and complexity and 3 years in leadership positions, e.g. team leader, branch chief, section chief**
- **EDUCATION: (none mandatory) Desired:**
  - **Baccalaureate degree – see Level 2**
  - **12 semester hours - see Level 2**
  - **Advanced degree**
- **TRAINING:**
  - **Met Level 1 and 2 training requirements**
  - **Additional advanced PROSPECT Courses or Instructor**
  - **Additional Certification in a Program Area OR continued real estate training**
  - **Desired:**
  - **6 advanced semester hours among: accounting, business finance (real estate or mortgage finance, appraisal), law, contracts, economics, marketing, marketing, quantitative methods, organization and management (business administration, program management, land management, forestry).**
  - **(These can be part of an advanced degree)**

Level 3

- **Level 3 Delegation - General Delegation:**
  - **Actions not authorized: actions that have to go to DASA**
  - **Annexation, Claims and Jurisdiction are Level 3 only.**
  - **Specific Dollar or Term limitations: none**
  - **Approvals required by applicable AR or ER/EC, e.g. Availability, Disposal Report, Acquisition. project; higher level if controversial; T-10 Report**
  - **Primarily will be limited to Division or District Chief of Real Estate, Director of Real Estate**

- **Questions?**